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# TAX ADMINISTRATION

# IRS Should Evaluate the Changes to Its Offer in Compromise Program

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**Abstract**
A growing backlog of cases and longer processing times have prompted concern on the part of taxpayers, Congress, and other stakeholders about the management of the Internal Revenue Services (IRS) Offer in Compromise (OIC) Program. An offer in compromise is an agreement between a taxpayer and the IRS to settle or compromise the taxpayers tax liability for less than the full amount owed. Generally, IRS considers offers in cases in which taxpayers cannot afford to pay the full tax liability. In recent years, particularly since the enactment of the Internal Revenue Service Restructuring and Reform Act of 1998 (Restructuring Act), the demand for offers has increased significantly. Even though IRS added staff to the program, the inventory of unresolved offers and the processing times have grown. IRS now takes about 10 months, on average, to make an offer determination.

**Subject Terms**

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**Abbreviations**

| | |
|---|---|
| ETA | effective tax administration |
| FTE | full-time equivalent |
| GPRA | Government Performance and Results Act |
| IRS | Internal Revenue Service |
| OIC | offer in compromise |
| OPERA | Office of Program Evaluation and Risk Analysis |
| TIGTA | Treasury Inspector General for Tax Administration |

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United States General Accounting Office
Washington, DC 20548

March 15, 2002

The Honorable Max Baucus
Chairman
The Honorable Charles E. Grassley
Ranking Minority Member
Committee on Finance
United States Senate

A growing backlog of cases and longer processing times have prompted concern on the part of taxpayers, Congress, and other stakeholders about the management of the Internal Revenue Service's (IRS) Offer in Compromise (OIC) Program. An offer in compromise is an agreement between a taxpayer and the IRS to settle or "compromise" the taxpayer's tax liability for less than the full amount owed. Generally, IRS considers offers in cases in which taxpayers cannot afford to pay the full tax liability. In recent years, particularly since the enactment of the Internal Revenue Service Restructuring and Reform Act of 1998 (Restructuring Act), the demand for offers has increased significantly. Even though IRS added staff to the program, the inventory of unresolved offers and the processing times have grown. IRS now takes about 10 months, on average, to make an offer determination.

Because of your concern about the growing inventory and processing times, you asked us to review IRS's administration of the program. Specifically, you asked us to (1) determine why the inventory of cases and case processing times have continued to grow; (2) assess whether IRS's current initiatives for managing the OIC Program will reduce inventory and processing times; and (3) determine whether IRS is fulfilling the requirements of the Restructuring Act in terms of independently reviewing all proposed rejections of offers, considering the facts and circumstances of each case, and not rejecting offers from low-income taxpayers solely on the basis of the amount offered.

You also asked us to review a recent change to IRS's installment agreement program. An installment agreement allows taxpayers to pay their tax liability over time. In 1998, IRS counsel determined that IRS did not have the authority to enter into an installment agreement that would not fully pay the tax liability within the time allowed by law. Because of concern that this decision would leave some taxpayers unable to qualify for either an installment agreement or an offer, you asked us to determine the extent to which IRS has information on how the counsel decision

affects taxpayers and to evaluate IRS's legislative proposal for a new partial payment installment agreement program.

To address these objectives, we reviewed and analyzed program data from IRS statistical reports and program documents and reviewed offer policies and procedures and studies by an outside contractor and the Treasury Inspector General for Tax Administration (TIGTA). We focused on fiscal years 1997 through 2001 because this was a period of enormous change in the OIC Program. We also interviewed IRS officials, including officials responsible for the OIC and installment agreement programs. Our scope and methodology are discussed in greater detail in a separate section of this report.

## Results in Brief

OIC inventory and processing time have grown, largely because IRS was unable to keep pace with the effects of program changes, despite significant increases in program staff. Between fiscal years 1997 and 2001, the ending inventory of unresolved offers almost tripled to about 95,000 and the percentage of cases that were closed within 6 months dropped from 64 to 32 percent. Program changes, some initiated by IRS and some mandated by the Restructuring Act, increased the demand for offers, the number of processing steps, and the number of staff hours needed to process a case. During the same period, staff hours charged to the OIC Program more than doubled, growing to 18 percent of total staff hours charged to all of IRS's programs for collecting tax debts. Yet, the demand for offers exceeded staff's capacity to process them.

The extent to which IRS's current initiatives would reduce the OIC Program inventory and processing time is uncertain. Generally, the current initiatives are intended to separate the processing of less complex and more complex offers, with lower-grade staff using standardized procedures to process less complex offers and higher-grade staff specializing in more complex offers. IRS projects that the initiatives will stabilize the inventory and keep up with the flow of new offers by the end of fiscal year 2002. More specifically, IRS projects that in fiscal year 2004, it will close 40 percent more cases, using 10 percent fewer and lower-grade staff than in fiscal year 2001. IRS's projections depend on a series of assumptions such as the number of staff hours needed per case. Many of the assumptions have little empirical basis, however; in some cases, offer program officials had no choice but to rely on professional judgment. They acknowledge that the projections are uncertain and said that because of the escalating inventory, processing time, and staffing costs, they felt that they had to take a "calculated risk" and begin implementing the initiatives.

The uncertainty about the projected results, combined with the costs of staffing the program, underscores the importance of evaluation plans, timely performance data, and goals for improving the program. As of January 2002, IRS had not completed plans for evaluating the effectiveness of most of the initiatives, had not completed plans for a performance data system in light of the initiatives, and had not set goals for processing time based on an evaluation of taxpayer needs, other benefits, and costs. Such information would give program managers, who are likely to face divergences between actual and projected results, a better understanding of the factors affecting the initiatives' performance and options for improving their performance.

IRS fulfilled the requirements of the Restructuring Act in terms of independently reviewing all proposed offer rejections, considering the facts and circumstances of each taxpayer when determining allowances for monthly living expenses, and not rejecting offers from low-income taxpayers solely on the basis of the amount offered. TIGTA reported in June 2000 that IRS was carrying out the act's requirements in these three areas. In discussions with TIGTA, the National Taxpayer Advocate, and other IRS officials, we found no evidence indicating that IRS was not following the new procedures.

IRS lacks data on the effect on taxpayers of its 1998 counsel decision that IRS did not have the authority to enter into partial payment installment agreements. According to IRS officials, the policy change created a situation in which taxpayers who were willing to pay some of their tax liability might not qualify for either an installment agreement or an offer. Instead, according to these officials, the only option was to put such taxpayers' accounts into inactive status. IRS's legislative proposal gives IRS broad discretion over how to implement a partial payment installment agreement program. IRS has not prepared written documentation describing eligibility, procedures, staffing needs, information system needs, projected costs, or evaluation plans. Such written documentation would provide outside stakeholders, including Congress, useful information about the impact of the legislative proposal and IRS's capacity to manage the new program. Evaluations would give IRS managers a better understanding of program performance and a better basis for considering changes to improve performance.

In this report, we are recommending that the Commissioner of Internal Revenue (1) develop plans for evaluating the various offer initiatives and move no new initiative into implementation without a finalized evaluation plan; (2) determine which OIC Program performance and cost data should

be collected; (3) set goals for offer processing time that are based on taxpayer needs, other benefits, and costs; and (4) prepare documentation describing its proposed partial payment installment agreement program in more detail.

## Background

The OIC Program is one of IRS's collection programs to resolve delinquent tax accounts. Taxpayers who do not pay their taxes in full when they file their tax returns or when IRS determines that they owe additional taxes are subject to IRS's collection process. The collection process begins when IRS sends the taxpayer a bill demanding full payment. For taxpayers who are unwilling or unable to pay, IRS may take enforcement action through liens, levies, or seizures of property; place the account in a temporary inactive status; or refer the case to IRS counsel for litigation. By law, IRS has 10 years from the date of assessment to collect delinquent taxes from a taxpayer. Taxpayers who are willing to pay may qualify for an installment agreement, which allows payments to be made over time; taxpayers who cannot afford to pay their full liability may be eligible for an offer in compromise.

Section 7122 of the Internal Revenue Code gives IRS authority to settle tax debts through compromises, that is, by accepting less than full payment. Historically, IRS's compromise authority has been limited to cases where there was doubt as to liability or doubt as to collectibility. In July 1999, IRS issued temporary regulations allowing for a third type of compromise when there is no doubt as to liability or collectibility but when compromising the taxes would promote effective tax administration. IRS can accept the following types of compromise.

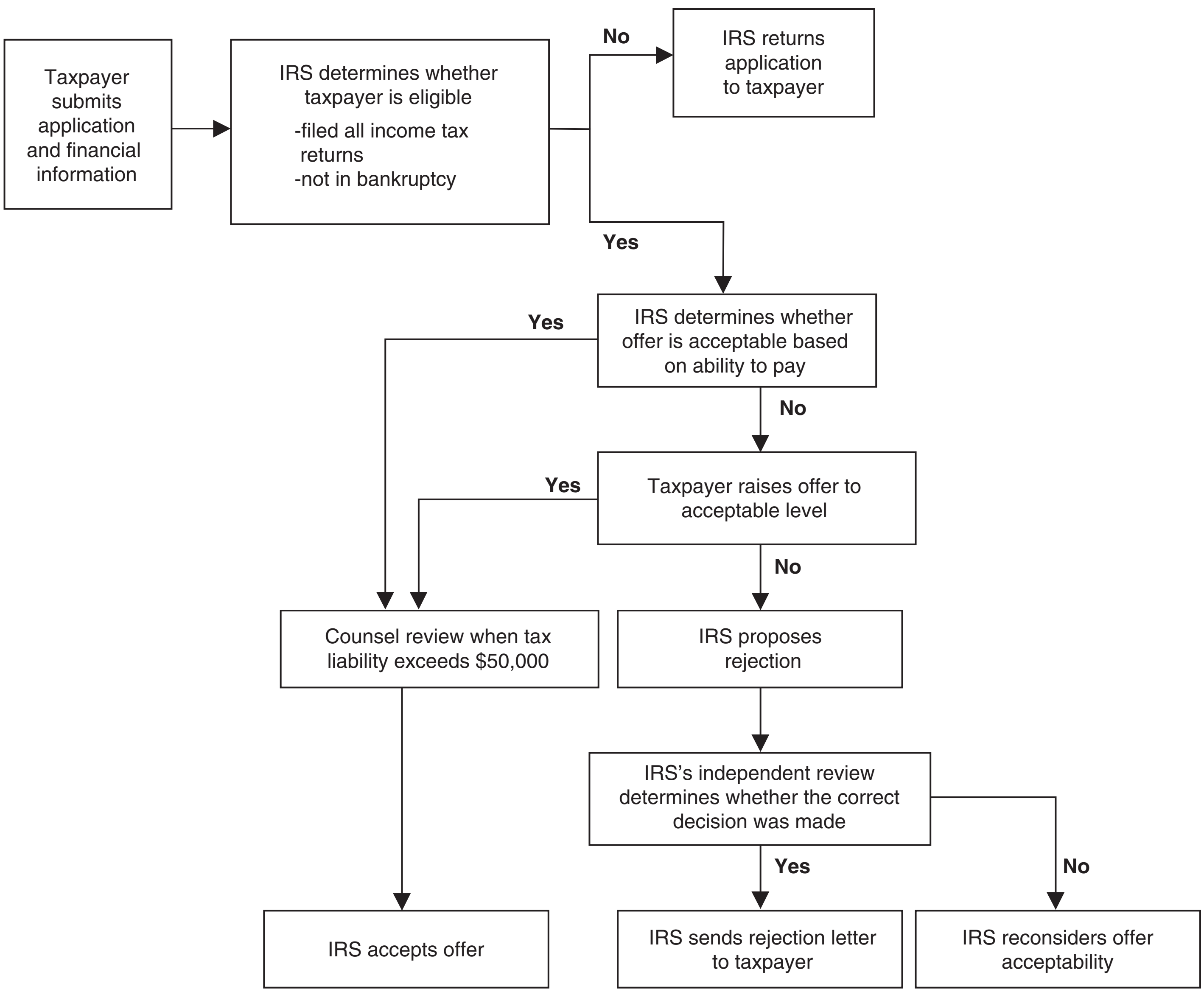
- A compromise based on doubt as to liability can be accepted when there is a dispute that the tax liability is correct.

- A compromise based on doubt as to collectibility can be accepted when (1) it is unlikely that the tax liability can be collected in full and (2) the amount of the taxpayer's offer reasonably reflects collection potential—the net equity of the taxpayer's assets plus the amount that IRS could collect from the taxpayer's future income. Because IRS's policy is to allow taxpayers sufficient resources to provide for necessary living expenses, if special circumstances exist, such as advanced age or serious illness of the taxpayer, IRS may accept an offer for an amount that is less than what could be collectible based on the taxpayer's financial condition.

- A compromise based on effective tax administration can be accepted only when (1) there is no dispute about the tax liability and (2) the taxpayer has sufficient resources to fully pay the tax but collection of the liability in full would either create an economic hardship or be detrimental to voluntary compliance.

As illustrated in figure 1, the offer process starts when an offer application is submitted by a taxpayer or his or her representative. The offer must be supported by a current statement of the taxpayer's financial condition, including data on assets and liabilities and a monthly income and expense analysis. If the taxpayer has not filed all required federal tax returns or is in bankruptcy, the offer is not considered workable and will be returned to the taxpayer. If the offer is eligible for consideration and the offer package is incomplete, IRS will contact the taxpayer and attempt to obtain the missing information. If the taxpayer does not provide the requested information, the offer application will be returned to the taxpayer.

**Figure 1: Simplified Overview of the Offer Process**




Source: Review of IRS's written procedures and discussions with IRS officials.

Once an offer package is complete, IRS determines whether the offer is acceptable by reviewing and verifying the taxpayer's financial data. The verification includes a review of prior-year tax returns as well as records showing the taxpayer's assets, bank accounts, and personal and real property. The taxpayer may be asked to provide additional documentation to verify financial or other information. If the financial statement becomes older than 12 months while the offer is being processed, the taxpayer must be contacted to update the information.

When an offer is unacceptable, IRS gives the taxpayer the opportunity to submit an amended offer, withdraw the offer application, or seek an alternative resolution to the case. When an offer is rejected, the taxpayer will be notified in writing after an independent administrative review of the proposed rejection. The letter will explain the reason for the decision and give instructions on how the taxpayer may appeal the decision. If an offer application is returned because the taxpayer did not provide all requested financial information, IRS's policy is to conduct an independent administrative review of the offer application before returning it to the taxpayer.

After an offer is accepted by IRS,[1] the taxpayer will be notified in writing and given instructions on how to make the agreed payments. IRS allows taxpayers three payment options—an immediate payment (within 90 days of acceptance); a short-term deferred payment plan (after more than 90 days but within 2 years of acceptance); or a deferred payment plan (during the remaining statutory period for collecting the tax).

Another way that IRS collects delinquent taxes is through installment agreements. Under an installment agreement, the taxpayer remains obligated to pay the entire tax liability and agrees to do so in installments over a period of time not to exceed the remaining statutory period allowed IRS by law to collect the tax liability, plus a 5-year extension. Interest continues to accrue on the unpaid balance. IRS may periodically review a taxpayer's financial condition and pursue further collection action if the taxpayer's ability to pay increases in the future.

[1]The tax code requires that legal counsel review an offer involving liabilities of $50,000 or more before IRS can accept the offer.

## Objectives, Scope, and Methodology

To determine why the inventory of cases and case processing times have continued to grow, we reviewed and analyzed OIC Program data from IRS statistical reports; reviewed OIC policies and procedures, program documents, and changes mandated by the Restructuring Act; and interviewed IRS officials. Since offers based on doubt as to liability are not processed by collection staff and represent less than one percent of all offers, we omitted them from our review. We did not check the reliability of IRS's program data in the automated OIC system, the collection time reporting system, and the OIC quality measurement system.

To assess whether IRS's current initiatives for managing the OIC Program will reduce inventory and processing times, we analyzed IRS's bases for the assumptions underlying the initiatives. As part of our evaluation, we interviewed IRS officials and reviewed relevant program documents, data, and studies by an outside contractor. Because the success of the initiatives depends in part on how well they are managed, we assessed IRS's goals and evaluation plans. For criteria for this assessment, we relied on past GAO reports on performance management and IRS's guidance on program evaluation.

To determine whether IRS is fulfilling the requirements of the Restructuring Act in terms of independently reviewing all proposed offer rejections, considering the facts and circumstances of each case, and not rejecting offers from low-income taxpayers solely on the basis of the amount offered, we reviewed relevant laws, regulations, and program guidance; studies by TIGTA; and reports by the OIC quality review program, IRS's appeals office, and the National Taxpayer Advocate. We also interviewed IRS officials.

To determine the extent to which IRS has information on how the policy change eliminating partial payment installment agreements affects taxpayers and to evaluate IRS's plan for a new partial payment installment agreement program, we interviewed installment agreement program officials and officials with responsibility for developing IRS's legislative proposal relating to installment agreements. We also reviewed installment agreement policies and procedures, program documents and data, IRS's legislative proposal, and examples of circumstances in which taxpayers may not qualify for either an installment agreement or an offer.

We performed our investigation at IRS's national headquarters and its Small Business and Self-Employed headquarters; IRS offices in Oakland and Fresno, California, and in Austin, Texas; IRS centers in Fresno and Austin; IRS's appeals office; the National Taxpayer Advocate's office; and

the OIC quality review program in Atlanta, Georgia. The offices and centers in California and Texas were subjectively selected because of their location and experience with offers. We also reviewed a subjectively selected sample of accepted, rejected, and returned offers in the offices we visited.

We did our work from May 2001 through January 2002 in accordance with generally accepted government auditing standards. We requested comments on a draft of this report from the Commissioner of Internal Revenue. His written comments are discussed near the end of this report and are reprinted in appendix III. In addition, the National Taxpayer Advocate provided written comments, which are reprinted in appendix IV.

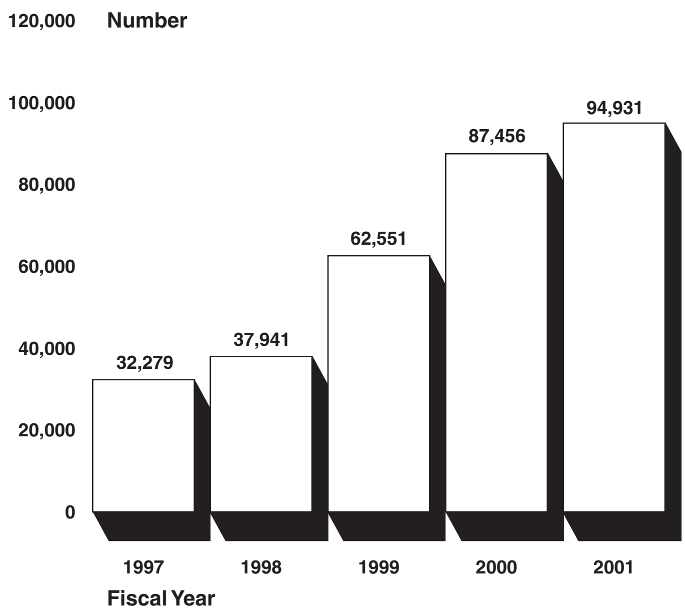
## Inventory and Processing Times Grew because Staffing Increases Were Outpaced by Program Changes

OIC inventory and processing times grew, largely because increases in staffing were outpaced by the effects of program changes. Between fiscal years 1997 and 2001, the inventory of unresolved offers almost tripled and the percentage of offers processed within 6 months dropped from 64 percent to 32 percent. Program changes, some initiated by IRS and some mandated by the Restructuring Act, contributed to increases in the demand for offers, the number of processing steps, and the number of staff hours needed to process a case. Despite significant increases in the staff devoted to the OIC Program, IRS was unable to close as many cases as it received.

### Inventory and Processing Times Have Grown

During fiscal years 1997 through 2001, IRS's ending inventory of offers, or the number of cases still unresolved at the end of the fiscal year, grew from about 32,300 to about 94,900 offers. As figure 2 shows, most of the growth occurred during fiscal years 1999 and 2000, when the inventory rose by almost 50,000 offer cases.

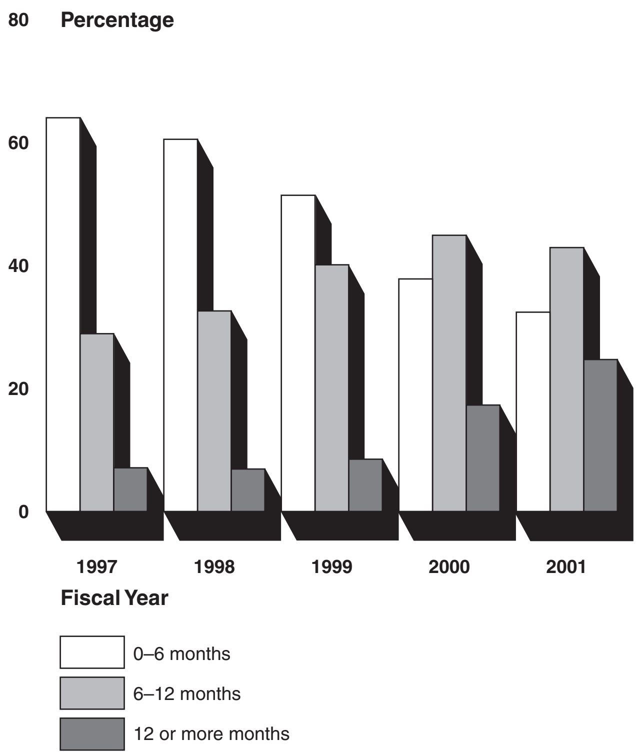
**Figure 2: End-of-Year Offer Inventory (Fiscal Years 1997–2001)**




Source: Unpublished IRS data on OIC activity for fiscal years 1997—2001 (IRS rept. no. 5000-108).

IRS measures its timeliness in processing offers by the percentage of offers completed within 6 months of the date that the offer is accepted for investigation. Our analysis of IRS data showed that from fiscal years 1997 through 2001, the percentage of cases that were closed within 6 months dropped from 64 to 32 percent, the percentage that were closed within 6 to 12 months grew from 29 to 43 percent, and the percentage closed after more than 12 months rose from 7 to 25 percent, as illustrated by figure 3.

**Figure 3: Age of Cases at Disposition (Fiscal Years 1997–2001)**




Note: “Disposition” means closed as accepted, rejected, or withdrawn.

Source: Unpublished IRS data on OIC activity for fiscal years 1997—2001 (IRS rept. no. 5000-108).

Although IRS does not routinely report the average number of days it takes to close a case, data from an IRS sample of closed offer cases[2] showed that, on average, it took about 292 days to close an offer case[3] during fiscal year 2000 and about 312 days to close an offer case during fiscal year 2001.

[2]The sample consists of offers that were closed as accepted, rejected, or withdrawn and that were reviewed by the OIC quality review program between March 1, 2000, and September 30, 2001.

[3]The number of days required to close a case was measured from the date that the offer was received by the offer program to the date that the case was closed.

Other data describing the results of the OIC Program are included in appendix I. The data include the dollar amount accepted in compromise and the amount of the total tax liability compromised.

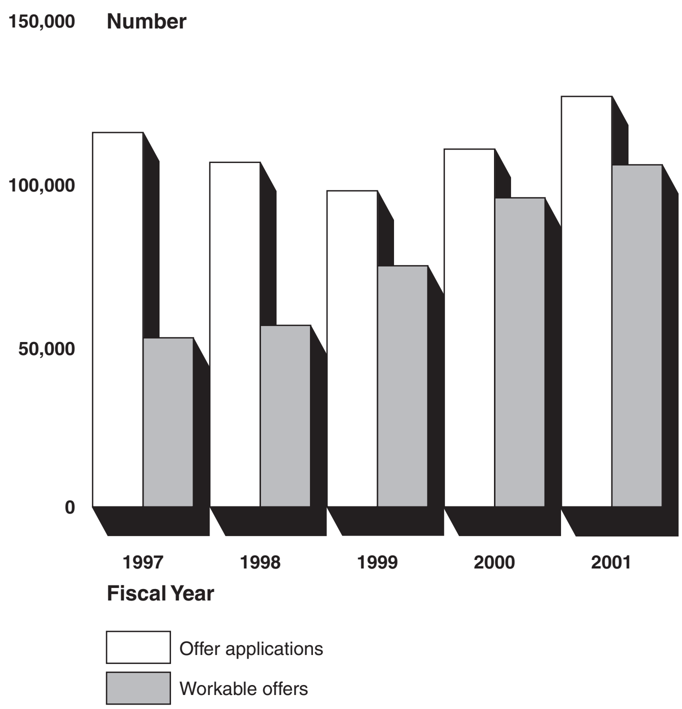
## Program Changes Contributed to the Growth in Demand, Processing Steps, and Staff Hours Per Case

Program changes contributed to the growth in inventory and processing times. First, program changes increased the demand for offers, as measured by the number of workable offers, or new offers that meet IRS's criteria for processing.[4] Second, some changes increased the complexity of the offer process, resulting in more processing steps and staff hours to process a case.

Our analysis of IRS's data showed that the number of workable offers doubled over the last 5 years, from about 51,700 offers in fiscal year 1997 to about 104,500 in fiscal year 2001, as illustrated by figure 4.

[4]IRS accepts all offers for processing except those from taxpayers who have not filed all required federal tax returns or are in bankruptcy.

**Figure 4: Offer Applications and Workable Offers Received (Fiscal Years 1997–2001)**




Note: Workable offers were calculated by subtracting from the number of offer applications received during the fiscal year the sum of the number of offers transferred to another IRS office and the number of offers returned to taxpayers as not eligible for consideration.

Source: Unpublished IRS data on OIC activity for fiscal years 1997—2001 (IRS rept. no. 5000-108).

According to IRS officials, the following program changes, some initiated by IRS and some mandated by the Restructuring Act, increased the demand for offers.

- **Increase in publicity.** In response to a Restructuring Act requirement that IRS inform taxpayers about the availability of offers in compromise as an option for resolving tax debts, the agency undertook outreach and education efforts. According to IRS officials, these efforts, along with media coverage, brought the revised program to the attention of taxpayers and practitioners who represent taxpayers. IRS officials told us that practitioners, in turn, have extensively marketed the revised OIC Program as a way for taxpayers to settle their tax debts for "cents on the dollar."

- **Change in processability criteria.** Before 1999, IRS would not process an offer application that was incomplete. In 1999, IRS made all offer applications eligible for processing, except those from taxpayers in bankruptcy proceedings or from taxpayers who had not filed all required federal tax returns. Instead of returning an incomplete offer to the taxpayer, IRS started working with taxpayers to obtain the information needed to process the offer. This change in processability criteria increased the number of workable offers.

- **Elimination of partial payment installment agreements.** Prior to 1998, IRS allowed partial payment installment agreements with payment periods that could last 15 years and longer. In 1998, IRS counsel determined that IRS did not have the authority to enter into installment agreements that would not fully pay the liability within the 10-year statutory collection period plus a 5-year extension. IRS officials stated that as a result of this decision, more taxpayers turned to the OIC Program. However, IRS officials told us they could not quantify the impact that this policy change has had on the demand for offers.

- **Expanded bases for accepting offers to include effective tax administration.** In response to the Restructuring Act, IRS expanded the bases for considering offers to include effective tax administration (ETA), which requires considering such factors as equity and hardship. Although the expansion had the potential to increase the demand for offers, IRS officials told us that they do not track the number of offers submitted on the basis of these factors. However, IRS data on the number of offers accepted by type showed that there were 261 ETA offers in fiscal year 2000 and 272 ETA offers in fiscal year 2001, suggesting that the impact on demand may have been small.

- **More payment options.** In 1999, IRS made available a long-term deferred payment option that allows taxpayers to pay the offer amount over the remaining statutory collection period. This change had the potential to increase demand, but IRS officials could not quantify the impact.

Three of the program changes that increased demand also increased the number of processing steps and staff hours needed per case. Changing the processability criteria resulted in IRS staff's spending time to work with taxpayers to complete offer applications. Expanding the bases for accepting offers means that before rejecting an offer based on doubt as to

liability or doubt as to collectibility, IRS must determine whether the factors considered under ETA or special circumstances criteria apply.[5] Making more payment options available increased the amount of staff time required to calculate offer amounts. However, IRS could not quantify the impact of these changes.

According to IRS officials, other program changes also added the following steps to the process and increased staff hours per case.

- **Independent administrative review.** The Restructuring Act required that IRS establish procedures for an independent administrative review of any proposed offer rejection before notifying the taxpayer. IRS extended the review to include offers to be returned for failure to provide requested financial information. Consequently, the independent administrative reviews increased staff hours per case and added a step to the offer process for rejected offers and returned offers. However, IRS does not currently track the time spent on offers by the independent reviewers.

- **Revised offer form.** IRS had to revise the offer form to reflect changes required by the Restructuring Act.[6] Since an offer in compromise is a legal contract between the taxpayer and IRS, the form had to be revised so that the offer contract and the acceptance letter would have the same terms. Form revisions added a step to the offer process for taxpayers who had to resubmit their offers on current forms.

## Increased Staffing Outpaced by Growth in Demand, Processing Steps, and Hours Needed to Process a Case

Between fiscal years 1997 and 2001, IRS took several actions to manage the growing inventory and processing time, including shifting significant numbers of staff to the OIC Program from other field collection activities. However, the growth in staffing was outpaced by the increases in demand and complexity of case processing in terms of processing steps and hours needed to process a case. Despite more than doubling direct staff time and

[5] In addition, all ETA offers must first be considered under doubt as to liability or doubt as to collectibility before being considered under ETA.

[6] These requirements included informing the taxpayer of their rights and IRS's obligations, eliminating the statutory waiver provision, providing for severability in the event of default by jointly liable taxpayers with joint offers, and expanding the bases of compromise to include ETA offers.

taking other actions, IRS was unable to reduce inventory and processing times.

**Staff hours grew.** IRS officials told us that as the demand for offers grew, the cost of staffing the program grew as well. IRS reassigned staff to the OIC Program from other collection programs, such as delinquent account and tax return investigations. As table 1 shows, the number of direct collection field staff hours charged to the OIC Program[7] more than doubled, from about 728,000 hours in fiscal year 1997 to about 1.6 million hours in fiscal year 2001. At the same time, the number of direct hours charged to all field collection activities declined by about 30 percent, from about 12.7 million hours in fiscal year 1997 to about 8.9 million hours in fiscal year 2001. With the growth in OIC Program hours and the decrease in total collection hours, the share of total direct field collection staff hours devoted to the OIC Program grew from about 6 percent in fiscal year 1997 to 18 percent in fiscal year 2001. IRS officials told us that having devoted such a large proportion of collection resources to the OIC Program may be negatively impacting other collection programs.

**Table 1: Number of Direct Collection Field Staff Hours Charged to the OIC Program and Total Direct Collection Field Staff Hours (Fiscal Years 1997–2001)**

| | Direct field staff hours | | |
|---|---|---|---|
| Fiscal year | OIC Program | Total collection | Offer hours as a percentage of total collection hours |
| 1997 | 727,682 | 12,684,232 | 5.7 |
| 1998 | 741,143 | 11,412,249 | 6.5 |
| 1999 | 860,125 | 9,426,813 | 9.1 |
| 2000 | 1,287,046 | 8,556,527 | 15.0 |
| 2001 | 1,600,074 | 8,892,385 | 18.0 |

Source: GAO analysis of unpublished IRS data on the Collection Time Reporting System for fiscal years 1997—2001 (IRS rept. no. 5000-23).

As shown in table 2, while the percentage of OIC Program staff categorized as professionals has decreased slightly between fiscal years 1997 and 2001, they continued to account for about three-quarters of offer

[7]IRS does not routinely measure total staff time devoted to the OIC Program. Direct staff time does not include time spent on processing offers by management, service center employees, district counsel, and the independent reviewers. It also does not include time spent by revenue officers explaining or soliciting offers and working with taxpayers to complete offer applications.

staff. These staff, generally revenue officers at the GS-11 and GS-12 grade levels,[8] investigate offers, negotiate with taxpayers, and make the decision to reject or accept an offer. During the same time period, the percentage of lower-grade paraprofessional staff increased slightly. These staff, generally tax examiners at the GS-4, GS-5, and GS-6 grade levels, perform less complex tasks, such as working with taxpayers to prepare a complete offer application.

**Table 2: Comparison of Direct Field Collection Staff Hours Charged to the OIC Program, by Category of Staff (Fiscal Years 1997 and 2001)**

| Category | FY 1997 | Percentage | FY 2001 | Percentage |
| --- | --- | --- | --- | --- |
| Professional | 564,666 | 78 | 1,173,531 | 73 |
| Paraprofessional | 119,587 | 16 | 333,272 | 21 |
| Clerical | 43,429 | 6 | 93,271 | 6 |
| **Total** | **727,682** | **100** | **1,600,074** | **100** |

Source: GAO analysis of unpublished IRS data on the Collection Time Reporting System for fiscal years 1997—2001 (IRS rept. no. 5000-23).

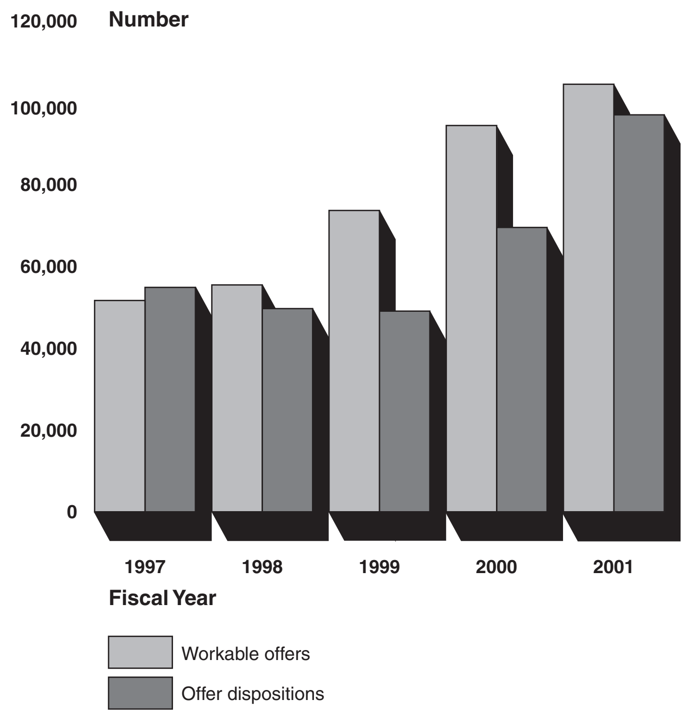
In addition to increasing staff, IRS took other actions to improve the efficiency of the program. These actions included creating an offer specialist position for revenue officers to exclusively process offers and make the program more consistent; revising offer processing procedures, including streamlining investigations of certain offers with liabilities of $50,000 or less; and revising the offer application package so that taxpayers can better understand what documents must be submitted for IRS to consider an offer. In addition, IRS used an outside contractor to conduct a review of the OIC Program to find ways to improve the offer process and reduce the inventory of unresolved offers. Some of the initiatives resulting from these efforts will be discussed later.

**Demand exceeded the number of offer cases closed by staff.** As shown in figure 5, there was a large increase in offer dispositions after fiscal year 1999. However, in spite of the increases in offer staffing and dispositions, the demand for offers, as measured by the number of workable offers received each year, generally exceeded the number of cases staff closed. Increases in staff hours per case, caused in part by

[8]"Grade level" means the level of classification that an employee has under a position classification system (i.e., referring to the duties, tasks, and functions he or she performs).

additional processing steps, contributed to the inability of staff to keep up with demand.

**Figure 5: Workable Offers and Offer Dispositions (Fiscal Years 1997–2001)**




Note: "Dispositions" mean cases closed as accepted, rejected, or withdrawn.

Source: GAO analysis of unpublished IRS data on OIC activity for fiscal years 1997—2001 (IRS rept. no. 5000-108).

## The Extent to Which IRS's Current Initiatives Would Reduce Offer Inventory and Processing Time Is Uncertain

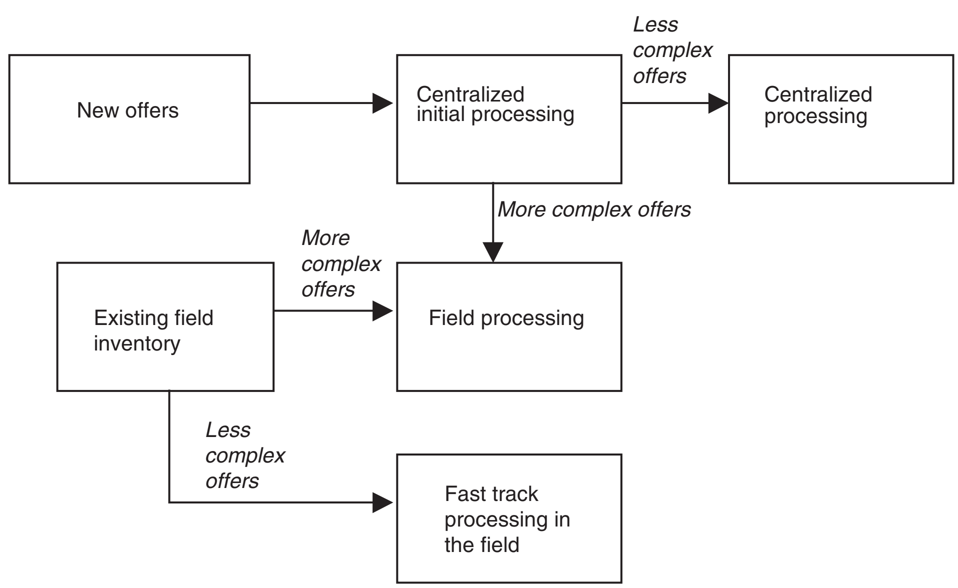
IRS has begun implementing a new strategy for processing offers, consisting of several separate initiatives intended to reduce inventory and processing time. Less complex offers will be processed centrally using standardized procedures intended to reduce staff hours per case and allow processing by lower-grade staff, while more complex offers will continue to be processed by higher-grade professional staff. Overall, IRS is projecting that standardization will allow fewer, lower-grade staff to process more cases. The accuracy of IRS's projected results for the initiatives is uncertain. Many of the underlying assumptions have little empirical basis—in some cases, program managers had no choice but to rely on their professional judgment. This uncertainty underscores the importance of timely program performance data and evaluations. However, as of January 2002, IRS had not completed plans for either a

performance data system or evaluations for most of the initiatives making up the new strategy.

## Centralized and Fast Track Processing Allow for Standardization and Lower-Grade Staff, but Results Are Uncertain

IRS has two key initiatives under way to reduce inventory and processing times—centralized processing and fast track processing. Centralized processing will use lower-grade staff to process new, less complex cases centrally and free up higher-grade staff for other field collection activities. Fast track processing will use both higher- and lower-grade field staff to close all less complex cases in the existing field inventory[9] during fiscal year 2002.

**Figure 6: Overview of Centralized and Fast Track Offer Processing**




Source: Discussions with IRS officials.

IRS centralized the locations where all offers are received and initially processed into two IRS centers—Brookhaven and Memphis—in August 2001. The new process is illustrated in figure 6. Lower-grade staff, known as process examiners (GS-4, GS-5, and GS-6), initially process new offer applications, determining eligibility for consideration and assembling case files. Other lower-grade staff, known as offer examiners (GS-7 and GS-9), work the less complex offers to completion using standardized

[9] The field inventory is located in IRS offices throughout the country.

procedures. The criteria for centralized processing include a tax liability of less than $50,000; wage or self-employment income; no employees; personal income tax, penalty assessment, or employment tax liability; and simple assets such as a personal residence. More complex new offers are sent to the field where higher-grade offer specialists (generally GS-11 and GS-12) work the cases to completion. These cases take longer to investigate and may require face-to-face meetings with the taxpayer.

IRS began using fast track processing in January 2002. Fast track cases must meet essentially the same criteria as cases processed centrally. However, IRS has designed fast track processing to take less time than centralized processing. Under fast track, field staff[10] would spend less time verifying a taxpayer's financial information and taxpayers would not be required to provide supporting documentation. Instead, IRS would rely on electronically available data[11] to verify financial information.

IRS expects to stabilize inventory and keep up with the flow of new cases by the end of fiscal year 2002. As table 3 shows, IRS is projecting that centralized and fast track processing would reduce fiscal year 2002 ending inventory to 48,000 cases—a level that IRS expects to maintain through fiscal year 2004. IRS projects that it can maintain this inventory level while reducing total full-time equivalent positions (FTE)[12] and using lower-grade staff. More specifically, IRS projects that in fiscal year 2004 it will close 40 percent more cases using 10 percent fewer FTEs and lower-grade FTEs than in fiscal year 2001.

[10]These staff generally consist of revenue officers or offer specialists (GS-11 and GS-12) and tax examiners (GS-7).

[11]Sources of electronic data include databases maintained by IRS as well as contracted research sources that provide credit and property data.

[12]An FTE generally consists of one or more employed individuals who collectively complete 2,080 work hours in a given year. Therefore, either one full-time employee or two half-time employees equal one FTE.

**Table 3: IRS's Projected Results for Centralized and Fast Track Processing (As of January 2002)**

| Fiscal year | Submissions | Field FTEs[a] | Centralized FTEs | Closures[b] | Ending inventory |
|---|---|---|---|---|---|
| 2001 [Actual] | 125,390 | 1,507 | - | 117,915 | 94,931 |
| 2002 [Projected] | 138,000 | 1,168 | 650[c] | 185,000 | 48,000 |
| 2003 [Projected] | 151,000 | 574 | 650 | 151,000 | 48,000 |
| 2004 [Projected] | 166,000 | 631 | 715 | 166,000 | 48,000 |

[a]Field FTEs include offer specialists and tax examiners, as well as trainers and coaches at the centralized sites.

[b]Closures include cases closed, cases returned as unprocessable, and cases transferred to another IRS office.

[c]Staff would be phased in during the first year of operation.

Source: IRS.

IRS's projections for centralized processing and fast track processing were based on a series of assumptions regarding offer submissions, percentage of offers meeting centralized criteria, number of cases meeting fast track criteria, direct staff hours needed per case, and staffing levels. Specifically, IRS made the following assumptions.

- Offer submissions, or new offer applications, would grow at a rate of 10 percent a year from fiscal years 2002 through 2004.
- Fifty-one percent of the submissions would meet the criteria for centralized processing, but the percentage would increase to 70 percent in fiscal year 2003.
- Thirty-three thousand cases in the field inventory at the beginning of fiscal year 2002 would meet fast track criteria.
- Staff in the centralized sites would take an average of 2 hours to determine processability and assemble each new case and an average of 6 hours to close those cases meeting the centralized criteria.
- Staff in the field would take an average of 4 hours to close cases in the existing field inventory that meet fast track criteria.
- Six hundred fifty FTEs would be needed in the centralized sites in fiscal years 2002 and 2003. These FTEs would be phased in during fiscal year 2002 as new staff received formal and on-the-job training.
- Approximately 225 offer specialists and tax examiners could close all fast track cases in the field during fiscal year 2002.

Whether these projections accurately predict IRS's future performance is uncertain. While the future is always uncertain, the extent of the uncertainty about the projections may be significant. As discussed below, some of the underlying assumptions were based on the experience of a pilot program,[13] others lacked a basis that could be verified, and some have changed over time. For many of the assumptions, there was little empirical basis—in many cases, program managers had no choice but to rely on their professional judgment. Program officials acknowledged the uncertainty. They said that because of escalating inventory, processing time, and costs, they felt they had to take a "calculated risk" and begin implementing the initiatives.

- **Projecting offer submissions.** According to OIC Program officials, IRS's projections for the number of offer submissions that it expects to receive through fiscal year 2004 are based on a 10 percent growth rate. IRS has revised its projections for offer submissions several times. Because the growth rate can fluctuate, and because offer submissions can be affected by factors beyond the control of IRS—such as changes in the economy—the accuracy of the current projections is uncertain.

- **Projecting the percentage of offers meeting centralized criteria.** IRS based its assumption for the percentage of cases meeting centralized criteria on a profile of the automated offer in compromise database. On the basis of that profile, IRS estimated that 51 percent of the cases involved liabilities of $50,000 or less. In fiscal year 2003, IRS plans to replace its dollar-based criteria with complexity-based criteria. IRS estimates that as a result of this change, 70 percent of the new offer submissions in fiscal year 2003 will meet the centralized processing criteria. IRS officials said that this percentage was based on professional judgment and would be revised when there is agreement on a definition of "complexity." As a result, it is difficult to project with any certainty the percentage of offers that would meet the revised criteria.

- **Projecting the number of fast track cases in the field inventory.** IRS based its assumption for the number of fast track cases on a

[13]According to program officials, IRS had successfully used streamlined processes requiring less investigation and lower-grade staff (generally GS-4 through GS-7) to work some low-value cases. Because of this experience, IRS piloted the use of streamlined procedures and lower-grade staff to process less complex offers in two locations. Before the pilot could be completed, IRS officials made the decision to implement centralized processing nationwide. IRS could not provide supporting data, however, because it did not retain the data after the decision was made to centralize.

qualitative review of a 1-week sample of closed cases selected for its OIC quality review program in April 2001.

- **Projecting direct staff hours per case for centralized processing.** IRS based its projections for direct staff hours per case on its centralized pilot experience. However, IRS was unable to provide any data from its pilot that would support the number of direct staff hours needed to assemble and close cases at the centralized sites.

- **Projecting direct staff hours per case for fast track processing.** IRS based its projections for direct staff hours per case on OIC data and professional judgment.

- **Projecting staffing levels for centralized processing.** IRS projected centralized staffing of 650 FTEs based on professional judgment and assumed a 20 percent productivity improvement over that of the pilot. IRS officials told us that the level of staffing for centralized processing was selected to result in processing less complex cases within 6 months.

- **Projecting staffing levels for fast track processing.** IRS based its staffing levels for fast track processing on the number of cases meeting fast track criteria and the number of staff hours needed to close a case.

## Other Initiatives Aim to Limit New Submissions and Improve Processing Efficiency, But Results Are Uncertain

IRS has several other initiatives under way or under consideration that are intended to limit the number of new offer submissions, reduce staff hours per case for certain categories of cases, and remove cases from existing inventory. These initiatives include the use of overtime in the field and the centralized sites, procedure and policy changes, and legislative and regulatory proposals. IRS's projected results for these other initiatives were generally based on the professional judgment of OIC Program officials and their experiences. Because IRS has not had experience with some of these initiatives, IRS officials said they could not project results with any certainty. The possible effects of these other initiatives were not considered in IRS's projections for centralized or fast track processing.

Table 4 summarizes the expected results and status of IRS's other initiatives. Following the table, we provide more detail on each of the initiatives.

**Table 4: IRS's Other Initiatives, Expected Results, and Status (As of December 2001)**

| Initiative | Expected Results | Status |
|---|---|---|
| Overtime | • Reduce inventory—how much depends on amount of overtime approved | Planned for fiscal year 2002. |
| Expanded Return Authority | • Reduce inventory by up to 15,000 cases in FY 2002<br>• Reduce new submissions by up to 10 percent<br>• Close 4 percent of new submissions more quickly | Implemented in September 2001. |
| Quick Hits | • Reduce inventory by 4,600 cases in FY 2002<br>• Reduce new submissions by up to 5 percent<br>• Close 5% of new cases more quickly | Under counsel review. |
| Frivolous Offers | • Reduce new submissions by up to 15 percent<br>• Close 5 percent of new submissions more quickly | Legislative proposal pending. |
| Statutory Period | • Reduce new submissions—how much depends on the number of taxpayers who submit offers to delay collection activity | Legislative proposal pending. |
| Counsel Review | • Reduce processing time for all offers for liabilities between $50,000 and $250,000 | Legislative proposal pending. |
| User Fee | • Reduce new submissions by up to 3 percent | Legislative proposal pending. |

Source: IRS.

**Overtime in field and centralized sites.** IRS used 74,000 hours of overtime for offer work in the field during fiscal year 2001. In fiscal year 2002, IRS plans to continue the use of overtime in both the field and the centralized sites to ensure that projected staffing levels are reached. At the time of our review, the number of hours had not yet been determined and approved.

**Expanded return authority.** To reduce the time that staff spend processing submissions that are not serious offers, IRS expanded its criteria for returning offers to taxpayers. Previously, IRS would make at least two attempts to request additional documentation to verify financial or other information from a taxpayer before an offer would be returned for failure to provide the requested information. As of September 2001, IRS

makes only one attempt to request information from a taxpayer before returning the offer. Further, IRS may reject an offer if a taxpayer (1) resubmits an offer that is not materially different from a previous offer that was either rejected with appeal rights or returned; (2) resubmits an offer within 1 year of having defaulted and received a termination letter; or (3) filed an offer solely to delay enforcement action after being notified of IRS's intent to levy or seize.

As a result of its expanded return authority, IRS estimated that as many as 15,000 of the cases in its existing inventory would be closed in fiscal year 2002; future submissions would be reduced by as much as 10 percent; and 4 percent of the new offers would be closed more quickly, primarily in the centralized sites. IRS officials told us that these projections were based on professional judgment and that the results would depend on when practitioners and taxpayers learn about IRS's new procedures. IRS officials told us that they are tracking returned offers and would be able to tell in the future whether these are good estimates. As of late November 2001, IRS told us that 700 offers or about 2 percent of submissions had been closed under the expanded return authority.

**Quick hits.** To reduce offer submissions, IRS may change its procedures to allow taxpayers with multiple delinquencies to enter into an installment agreement for one or more of their delinquencies rather than place all of them in a currently-not-collectible status. This initiative is currently under counsel review. According to IRS, this initiative would accomplish, in some cases, the same results as the legislative proposal to change Internal Revenue Code Section 6159 to allow for partial payment installment agreements (discussed below). For example:

A taxpayer owes $20,000 for 2 years of delinquencies—$5,000 for one year and $15,000 for the other—but he cannot full pay within the 73 months remaining before the collection statute expires. However, the taxpayer can pay $200 a month, for a total of $14,600. Under quick hits, IRS would take an installment agreement for $5,000 and put the other year of delinquency or $15,000 in a currently not collectible status. The taxpayer would be expected to make payments on the installment agreement but not on the separate delinquency that was put in a currently not collectible status.

Based on installment agreement data and professional judgment, IRS estimated that under quick hits, 4,600 cases could be closed from the existing inventory in fiscal year 2002 and future offer submissions could be reduced by up to 5 percent, primarily in the centralized sites. Also, IRS estimated that 5 percent of the future inventory could be closed more quickly, primarily in the centralized sites.

**Frivolous offers.** To discourage offers aimed at delaying collection action, IRS is requesting legislative authority to establish a $5,000 penalty for frivolous offers. IRS developed its legislative proposal for frivolous offers to supplement its expanded return procedures (also discussed above). Based on professional judgment and offer experience, IRS estimates that this proposal, if approved, would generally discourage most abuse, reduce new offer submissions by as much as 15 percent, and close 5 percent of new cases more quickly, primarily in the centralized sites.

**Statutory period**. IRS is also requesting legislative authority for the collection statute to be suspended when an offer is submitted. As discussed above, by law IRS has 10 years from the date of assessment to collect the delinquent taxes from the taxpayer. However, when a taxpayer files an offer, the collection statute does not stop while the offer is pending. This has encouraged some taxpayers to file offers as an attempt to delay collection action while the statutes of limitation on collecting their tax debts continue to expire. IRS officials believe this proposal would reduce the number of new submissions. However, IRS cannot quantify the potential reduction of future submissions that may have been submitted in order to delay collection action.

**Counsel review.** To reduce processing time, IRS is requesting legislative authority to change the threshold for counsel review of offers. Section 7122(b) of the Internal Revenue Code requires counsel review in all cases where the total liability is $50,000 or more. According to IRS's quality review of a sample of closed offer cases, it took an average of 57.2 days for cases to be sent to and returned from counsel during fiscal year 2001. IRS questioned the added value of the counsel review for offers for liabilities less than $250,000 and has proposed that the threshold be raised from $50,000 to $250,000. If this authority is granted, it would reduce processing time for offers for liabilities between $50,000 and $250,000. An IRS official told us that 31.2 percent of the offers closed in fiscal year 2000 were for tax liabilities between $50,000 and $250,000 and 4.8 percent were for tax liabilities of $250,000 or more.

**User fee.** To offset the cost of the direct staff hours used to process offers, IRS is requesting legislative authority to charge taxpayers a user fee. Although offers from low-income taxpayers and offers based on effective tax administration would be exempt, the taxpayer would need to pay a user fee when the offer is submitted and would be reimbursed later. Based on IRS's best guess, this proposal, if approved, would reduce new offers by as much as 3 percent.

## Plans for Evaluations and Data Collection Are Incomplete, and the Goal for Processing Time Has Not Been Verified

As of January 2002, IRS had not completed plans for evaluating the effectiveness of most of its offer initiatives, had not completed plans for a performance data system, and had not set program goals based on an evaluation of taxpayer needs, other benefits, and costs. Without such plans and goals, IRS may not be able to determine the effectiveness of the initiatives.

Program officials said that they intend to evaluate centralized processing. IRS's Office of Program Evaluation and Risk Analysis (OPERA) has agreed to conduct an evaluation, but a plan for the evaluation had not yet been developed. Program officials told us, however, that they had put in place measures for centralized processing and that program managers were continually collecting data and making changes as centralized processing was being implemented. Officials said that such monitoring would enable them to know whether centralized processing was meeting IRS's goals for closing cases within 6 months and for the percentage of cases closed within 6 months.

An evaluation plan for the fast track program has been developed by OPERA. According to OPERA officials, the plan is designed to assess fast track as it has been implemented in the field and also to assess whether the offer program database includes sufficient information for effective program management. The planned evaluation is also intended to provide some information useful for deciding whether to expand fast track processing. OIC Program officials stated that they are considering whether to expand fast track processing to cover new, less complex cases, which are processed centrally. It is not clear whether centralized fast track would be the same as the fast track currently being implemented in the field. For example, the mix of high- and low-grade staff used in the field is different from the mix of staff being used centrally. In addition, the data being verified electronically in the field is not the same as the data being submitted in new cases. According to OPERA officials, the planned fast track evaluation is also intended to determine whether program results differ because of such variables.

OIC Program officials said that they do not plan to develop evaluation plans for their other initiatives. Without such plans, it may be difficult to distinguish the impact of one initiative from that of another.

Because actual inventory and processing time could be greater or less than projected, IRS managers may need to decide whether and how to make additional changes to the OIC Program. For example, if results are better than the projections, IRS may have opportunities to reassign some offer staff. If results are worse than projected, other approaches to managing

inventory and processing time may need to be considered. Such decision-making would benefit from reliable, timely performance and cost data and evaluations. The Government Performance and Results Act (GPRA) of 1993 and IRS guidance both stress the benefits of first gathering and then evaluating data to help managers understand the factors that influence performance. While reliable, timely performance data and evaluations are always beneficial, the uncertainty about both the results and the costs of the offer initiatives highlights the importance of tracking and evaluating the initiatives' performance.

Planning for data collection and evaluation is also important. Systematic attention to the design of data collection and evaluation efforts can help assure the usefulness of the efforts and safeguard against using time and resources ineffectively. Before information is collected, an evaluation plan should specify details, including the data to be collected, data sources, data collection methods, basis for comparing outcomes, and an analysis plan.

We recognize that collecting performance data and conducting performance evaluations have costs. Consequently, the amount of data to collect and the scope and depth of evaluations should be based on the resources required and the benefits of the information.

As noted earlier in this report, IRS did not track some data that might be useful for managing the OIC Program or determining the effectiveness of the initiatives. These data might include, for example, the total staff time devoted to the OIC Program, the time taken by the independent administrative review, and the percentage of taxpayers who failed to comply with the terms of their offer, by year of acceptance. Whether such data are worth collecting depends on the extent to which they contribute to better program management or to a better evaluation of the effectiveness of the offer initiatives. As noted earlier, OPERA's evaluation of fast track field processing includes an assessment of data needed for effective program management. Similar assessments of performance data needs for centralized processing and the other initiatives would also contribute to better program management.

IRS measures processing time relative to a standard of six months, but empirical information has never been used to verify that standard as an appropriate measure of program performance. IRS officials said that the 6-month standard was based on their professional judgment about what IRS could achieve and what taxpayers would accept.

In two recent reports, we discussed the benefits of setting service goals after evaluating taxpayer or customer needs, other benefits, and costs.[14] More specifically, we discussed industry guidance for customer service that recommended setting goals based on how long customers are willing to wait for the service, the value of the service to the organization, and the costs of providing the service. Without goals for offer processing time based on such factors, IRS lacks a yardstick for measuring the effectiveness of the initiatives and lacks criteria for making strategic decisions about issues such as staffing levels.

## IRS Fulfilled Certain Requirements of the Restructuring Act

IRS has implemented the following provisions mandated by the Restructuring Act: (1) independently reviewing all proposed offer rejections before notifying taxpayers; (2) considering the facts and circumstances of each taxpayer when determining allowances for monthly living expenses; and (3) not rejecting offers from low-income taxpayers solely on the basis of the amount offered. The Treasury Inspector General for Tax Administration (TIGTA) reviewed IRS's implementation of these Restructuring Act provisions and reported in June 2000 that IRS had modified its offer procedures to carry out the act's requirements. Further, TIGTA, IRS officials, and the National Taxpayer Advocate found no evidence to indicate that IRS was not following the new procedures.

### IRS Independently Reviewed All Proposed Offer Rejections Before Notifying Taxpayers

The Restructuring Act required that IRS establish procedures for an independent review of any rejection of a proposed offer before the rejection is communicated to the taxpayer. The Restructuring Act also stipulated that these procedures should allow taxpayers to appeal the offer rejection to IRS's Office of Appeals. To implement the requirement, IRS established an independent administrative review process. IRS went beyond the requirements of the Restructuring Act by expanding the review process to include offers being returned because the taxpayer did not provide requested financial information.[15] IRS also modified its internal guidance by adding criteria for the independent review and delivered a 16-hour training course to all independent reviewers.

[14] U.S. General Accounting Office, *IRS Telephone Assistance: Opportunities to Improve Human Capital Management*, GAO-01-144 (Washington, D.C.: Jan. 30, 2001); U.S. General Accounting Office, *IRS Telephone Assistance: Limited Progress and Missed Opportunities to Analyze Performance in the 2001 Filing Season*, GAO-02-212 (Washington, D.C.: Dec.7, 2001).

[15] Withdrawn offers are not subject to IRS's independent administrative review process.

In June 2000 TIGTA reported that IRS had implemented the Restructuring Act requirements for establishing an independent administrative review. TIGTA based its finding on a survey of IRS field office directors and a review of a random sample of rejected offers submitted after enactment of the Restructuring Act. The survey of field office directors showed that the independent administrative review had been implemented in all field offices. In its review of rejected offers, TIGTA found no evidence that any offer had been rejected without undergoing the administrative review before IRS notified taxpayers of the rejections and their rights to appeal them.

In 2001, IRS officials from the Small Business and Self-Employed headquarters and the appeals office told us that they had seen no evidence to suggest that the independent reviews were not taking place. Furthermore, an OIC Program official told us that IRS had added internal controls to its management information system to ensure that an independent administrative review occurs before the taxpayer is notified of the rejection and his or her appeal rights. As a result of these controls, IRS's letter notifying taxpayers of rejections cannot be system generated until the independent review has been completed and a reason code has been entered into the automated OIC information system.

Although TIGTA found no evidence suggesting that the required reviews of rejected offers were not taking place, TIGTA did raise an issue about withdrawn offers. In its June 2000 report and in another report issued in May 2001, TIGTA expressed concern about IRS's procedures that allow taxpayers to withdraw their offers. If an offer cannot be given favorable consideration, IRS allows the taxpayer to withdraw the offer and advises him or her that in withdrawing the offer, he or she loses any appeal rights. TIGTA believed that taxpayers would be better served were the proposed offer rejection to proceed through the independent administrative review process, because the taxpayer would retain the right to appeal the proposed rejection. In response to TIGTA's concern, IRS stated that it believed that allowing for withdrawals serves the interest of both the government and the taxpayer by avoiding unnecessary costs to both parties.

## IRS Considered the Facts and Circumstances of Each Taxpayer When Determining Allowances for Monthly Living Expenses

IRS reviewed the reasonableness of an offer based on the amount the taxpayer is willing to pay given, among other things, the taxpayer's necessary living expenses. In 1995, IRS published national and local schedules that set limits on allowable monthly living expenses. In 1998, Congress directed IRS, in the Restructuring Act, to consider the facts and circumstances of a particular taxpayer's case in determining whether the national and local schedules were adequate. If the facts and circumstances indicated that the use of schedule allowances would be inadequate, the taxpayer should not be limited by the national and local allowances.

IRS acted as follows to address the Restructuring Act requirement regarding facts and circumstances.

- Issued temporary regulations in July 1999 providing that the applicability of the allowable expense standards would be determined by the facts and circumstances of each taxpayer's case.
- Revised the Internal Revenue Manual to provide that the national and local standards would serve as the starting point in evaluating the taxpayer's financial condition. If, however, the facts indicated that use of the scheduled allowances would be inadequate under the circumstances, IRS will allow the taxpayer adequate basic living expenses.
- Established criteria to be used by the independent reviewers in determining whether the decision to reject an offer is appropriate. According to the criteria, reviewers must determine whether the offer investigator considered the facts and circumstances of the taxpayer in deciding whether the national and local expense standards were appropriately applied.
- Initiated a separate review of a sample of closed offer cases as part of its collection quality review program in March 2000. According to IRS officials, in the past, few offers had been selected for review in the collection quality review program, because the numbers of offers were small in relation to other types of collection cases.

In its June 2000 report, TIGTA found that IRS was considering the facts and circumstances of taxpayers when determining how much should be allowed for monthly living expenses. TIGTA reviewed a random sample of rejected offers to determine whether it appeared that any offer was rejected in which the taxpayer claimed that IRS's allowable living expense schedules were insufficient. Also, based on TIGTA's findings, IRS updated its procedures by adding clarifying guidelines for the way that equity in

assets necessary for the production of income or health and welfare of the taxpayer's family should be treated in analyzing a taxpayer's offer.

As mentioned above, IRS's independent administrative reviewers are responsible for reviewing proposed offer rejections to determine, among other things, whether the facts and circumstances were considered in determining whether the national and local expense standards were appropriately applied. Reviewers told us that when they did not agree with a proposed rejection, it was generally because the decision was not fully documented.

### IRS Did Not Reject Offers from Low-Income Taxpayers Solely on the Basis of the Amount Offered.

To ensure that offers from low-income taxpayers are considered, the Restructuring Act required that IRS not reject offers from low-income taxpayers solely on the basis of the amount offered. In response, IRS revised its internal guidance to provide that an offer may not be rejected solely on the basis of the offer amount. In its review of a sample of rejected offers, TIGTA found no indication that IRS had rejected any offer solely based on the low dollar amount of the offer. In addition, OIC Program officials, an appeals official, and the National Taxpayer Advocate told us that they had seen no evidence that offers from low-income taxpayers were being rejected solely on the basis of the amount offered.[16]

## IRS Lacked Data and Written Plans for Partial Payment Installment Agreements

IRS could not produce reliable data on the effects of the 1998 IRS counsel determination that IRS did not have the authority to enter into installment agreements that would not fully pay the tax liability before the collection statute expired. IRS's legislative proposal that would expressly allow IRS to enter into partial payment installment agreements is broadly worded and leaves considerable discretion to IRS. As of December 2001, IRS did not have a business case, implementation plan, or other written documentation describing features of the new program, including eligibility requirements, potential number of such agreements, monitoring process, staffing needs, information system needs, projected costs, and evaluation plans.

[16]The National Taxpayer Advocate commented that some taxpayers and practitioners had incorrectly interpreted this provision to mean that IRS must accept all low-dollar offers, regardless of the facts and circumstances of the case.

## IRS Lacked Data on the Effect of Prohibiting Partial Payment Installment Agreements

In April 1998, IRS counsel determined that IRS did not have the authority to enter into installment agreements that would not provide for full payment of the taxpayer's liability before the collection statute expired. According to IRS officials, this policy change created a situation in which some taxpayers who were willing to pay some amount would not qualify for either an installment agreement or an offer. Instead, the only option for IRS was to put the account in inactive status, creating, according to IRS officials, a new group of cases for which there was no resolution. An apparent "procedural gap" existed, because offers in compromise or enforcement actions, such as the seizure of assets, were not practical alternatives for some cases in which IRS previously would have accepted a partial payment installment agreement.

As of December 2001, IRS lacked reliable data on how the prohibition of partial payment installment agreements affected taxpayers. IRS attempted to count the number of taxpayers who entered into partial payment agreements in the past, but sufficiently reliable data were not available to complete the analysis. IRS developed some general data on the potential effects that the policy change had on the installment agreement program in terms of changes in the volumes of cases and tax dollars collected through installments, but it was unable to measure actual effects. IRS officials told us that since 1998, some taxpayers who were denied a partial payment installment agreement might have submitted an offer application. However, IRS cannot quantify the number of such taxpayers, the outcome of their offers, or the increase in the number of submissions that the OIC Program may have received as a result of the installment agreement policy change.

Nor was IRS able to provide a sample of actual cases that fell into the procedural gap. For example, in following up on the collection procedural gap, IRS's Small Business and Self-Employed headquarters' officials reviewed 23 cases that the field staff believed had no resolution. The officials concluded that all of the cases could be resolved using existing enforcement authorities.

## IRS's Proposed Legislative Change Allows Broad Discretion and Lacks an Implementation Plan

In 2001, IRS drafted a legislative proposal that would amend the Internal Revenue Code to expressly allow IRS to enter into partial payment installment agreements. Under IRS's proposal, section 6159 would be amended to allow IRS to enter into written agreements in which a taxpayer would be allowed to make payment on any tax in installments if IRS determines that such agreement will facilitate full or partial collection of the liability. IRS officials said that the new authority to accept partial

payment installment agreements would be used only in those narrow circumstances in which IRS's only other option would be to assign the case an inactive status. (See appendix II for a copy of IRS's proposal and examples of what would be accepted as a partial payment installment agreement.)

Officials also said that acceptance of partial payment installment agreements would not prevent IRS from pursuing other collection actions against taxpayers. Specifically, they said that IRS would monitor a taxpayer's income and assets over the life of a partial payment installment agreement. If a taxpayer's income increased, or if assets were accumulated to allow for larger payments, then IRS would demand such payments from the taxpayer. IRS officials said the ability to monitor a taxpayer's income and assets and to demand additional payments was a key difference between the proposed partial payment installment agreement program and the OIC Program. Under the OIC Program, a contractual agreement compromises a taxpayer's liability. The unpaid portion is written off and IRS agrees to take no further collection action after the taxpayer meets all terms of the offer.

IRS's legislative proposal is broadly worded, granting considerable discretion to IRS to tailor the provision's use through regulation. According to IRS officials, although it is their intention to use the provision narrowly, the proposal was intentionally written broadly so that IRS would not have to request a legislative change in order to make policy improvements.

As noted by the National Taxpayer Advocate, the lack of specific guidance regarding the appropriate circumstances under which IRS would accept a partial payment installment agreement leaves open the possibility of abuse. The taxpayer advocate endorsed the proposal but suggested that Congress provide guidance as to what factors IRS should consider when entering into partial payment installment agreements. The advocate expressed concern that the availability of partial payment installment agreements provided the opportunity for certain taxpayers to abuse the system by allowing them to continue living in an affluent lifestyle encumbered by debt. The advocate also cautioned that taxpayers should not be allowed to enter into partial payment agreements until they demonstrate the willingness and ability to retire their tax debt.

Although IRS officials state that the proposed authority to grant partial payment agreements is intended to be used only in narrow circumstances, the legislative proposal, as currently written, offers no provisions to

ensure that these agreements are entered into only under appropriate circumstances. IRS has not described how it will evaluate agreements to ensure that revenue officers are not using the partial payment installment agreement when a seizure or an offer is, in fact, a viable alternative. IRS officials said, however, that the collection process leaves little discretion to revenue officers as to when a partial payment installment agreement would be appropriate.

As of December 2001, IRS had not developed a business case, implementation plan, or other written documentation describing the features of the proposed partial payment installment agreement program. Specifically, IRS did not have written documentation on key program design issues, such as eligibility requirements for a partial payment installment agreement, the potential number of taxpayers who might request such agreements, or procedures for accepting, rejecting, reviewing, and monitoring agreements. Nor did IRS have documentation on the resources that would be required for the program, including staffing, information systems, and projected costs. Business cases, which would include such information, are commonly used management tools that provide a basis for making resource allocation decisions and for monitoring and evaluating a project's performance. Such written documentation would provide outside stakeholders, including Congress, useful information about the impact of the legislative proposal and IRS's capacity to manage the new program.

Particularly important is the fact that IRS has not developed an evaluation plan to monitor and assess the performance of its proposed partial payment installment agreement program. As noted earlier, both GPRA and IRS guidance emphasize the importance of collecting performance data and analyzing such data to understand the factors that affect performance. Without a mechanism to track performance and evaluate the program, IRS would not have information to guide informed decision-making regarding resource allocations to the program, appropriate staffing levels, and staff productivity or to determine whether the program is operating as intended. As was the case with the OIC initiatives, the lack of information about partial payment installment agreements underscores the importance of program evaluation. Evaluations would give IRS managers a better understanding of program performance and a better basis for considering changes to improve performance.

## Conclusions

IRS's Offer in Compromise Program is a necessary element of the agency's overall collection effort. Because some taxpayers will inevitably be unable to fully pay their tax liabilities, IRS must have a program that can timely

and fairly compromise such tax debts. However, a continued increase in the inventory of cases, processing time, and costs would put the effectiveness of the OIC Program at risk.

Whether IRS's initiatives for improving the OIC Program will succeed in reducing inventory and processing time while holding costs at a sustainable level is uncertain. Because of the uncertainty, program managers will likely have to make adjustments to the program as actual performance diverges from projected performance in unpredictable ways. Several steps, if taken now, could better prepare offer program managers for making such decisions. Goals based on an evaluation of taxpayer needs, other benefits, and costs could provide criteria for judging the effectiveness of the initiatives. Timely data could allow program managers to routinely track progress. Evaluations could determine the effectiveness of the initiatives and the reasons for their effectiveness. Armed with such an understanding, program managers would have a better basis for making future adjustments to the program.

The uncertainty about the effect of the initiatives on program performance also means that the future costs of the program could be higher than projected. OIC Program costs, measured by the numbers of staff or as a proportion of collection resources, have risen significantly in recent years. IRS recognizes that the proportion of collection resources devoted to the OIC Program may be negatively affecting other collection programs. Consequently, IRS's centralized and fast track processing initiatives are intended to increase the involvement of lower-grade collection staff in the OIC Program and to eventually free up higher-grade field staff for other collection activities. If projected results are not realized and costs continue to rise, however, Congress and IRS may need to address the question of the affordability of the OIC Program as it is presently constituted. The uncertainty about the costs of the present initiatives means that it may be premature to reconsider the program now. However, uncertainty about future program costs reinforces the importance of timely performance data and program evaluations. Such information will be critical for ongoing congressional oversight.

IRS's proposal for a partial payment installment agreement program suffers from weaknesses similar to those in the OIC Program initiatives. Little reliable information exists now about the likely effects of the program, and there is no written plan for evaluating the success of the program if the proposal is passed. Managers of such a program would benefit from timely performance data and evaluations that provide a more

informed basis for making decisions about how to manage and improve the program.

## Recommendations for Executive Action

As IRS makes changes to its OIC Program, we recommend that the Commissioner of Internal Revenue

- develop evaluation plans for the various offer initiatives that include details on data to be collected, data collection methods, basis for comparing outcomes, quality of decisions, and an analysis plan and move no new initiatives into implementation without a finalized evaluation plan;

- determine which OIC Program performance and cost data should be collected to monitor program performance, given resource constraints, and ensure that such data are collected in a timely and reliable manner; and

- set goals for offer processing time that are based on taxpayer needs, other benefits, and costs.

In addition, we recommend that the Commissioner of Internal Revenue prepare documentation for its proposal to allow partial payment installment agreements. The documentation should describe key features of the proposal, including the benefits to taxpayers; the processes for accepting, rejecting, reviewing and monitoring the agreements; resource needs; the number of taxpayers that could be affected; and plans for evaluating the impact of the program.

## Agency Comments and Our Evaluation

On March 13, 2002, we received written comments on a draft of this report from the Commissioner of Internal Revenue (see app. III). The commissioner generally concurred with our recommendations and stated that our report is comprehensive and accurately accounts for the factors that influence the offer inventory.

The National Taxpayer Advocate also provided comments, which are reprinted in appendix IV. The advocate agreed with our findings and expressed support for IRS's proposal to allow partial payment installment agreements.

As we agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution of it until 30 days from its issue date. We will then send copies of this report to the Commissioner of Internal Revenue and other interested parties. We will also make copies available to others who request them.

If you have any questions or would like additional information, please call me or Charlie Daniel at (202) 512-9110. Key contributors to this report are Susan Malone and Sharon K. Caporale.

James R. White
Director, Tax Issues

# Appendix I: Total Tax Liability Compromised

**Table 5: Total Tax Liability Compromised (Fiscal Years 1991-2001)**

| Fiscal year | Amount accepted (dollars in millions) | Total tax liability (dollars in millions) | Percent of total tax liability |
|---|---|---|---|
| 1991 | 37.1 | 139.8 | 27 |
| 1992 | 106.2 | 661.1 | 16 |
| 1993 | 209.6 | 1,377.4 | 15 |
| 1994 | 280.8 | 1,633.5 | 17 |
| 1995 | 297.1 | 1,855.7 | 16 |
| 1996 | 286.8 | 2,169.8 | 13 |
| 1997 | 295.0 | 1,986.8 | 15 |
| 1998 | 290.1 | 1,971.2 | 15 |
| 1999 | 311.6 | 2,355.6 | 13 |
| 2000 | 316.2 | 2,586.9 | 12 |
| 2001 | 340.8 | 2,688.7 | 13 |

Source: GAO analysis of unpublished IRS data on OIC activity for fiscal years 1997—2001 (IRS rept. no. 5000-108).

# Appendix II: IRS's Partial Payment Installment Agreement Proposal

**PROVIDE THE SECRETARY FLEXIBILITY IN GRANTING INSTALLMENT AGREEMENTS THAT WILL NOT FULLY PAY TAX LIABILITIES**

**Summary of Proposal**

Grant the Secretary authority to enter into installment agreements that are in the *best interest of the government and taxpayers*, regardless of whether full payment of the taxpayer's liabilities is anticipated.

**Purpose of Proposal**

This change will provide a payment option for taxpayers who can not fully pay their liability over the term of an installment agreement, but for whom an offer in compromise is not a viable alternative. This option will permit these taxpayers to reduce their liabilities while also enabling the government to maximize the collection on their tax liabilities.

**Supporting Analysis**

It is common for IRS collection employees to encounter taxpayers who cannot pay their full liability under an installment agreement. Under current law, it is not legal for the IRS to accept such an installment agreement.

An offer in compromise may not be a practical alternative in these situations for any of the following reasons:

- The taxpayer has no assets or wage income against which enforcement action can be taken and the taxpayer is unwilling or unable to submit an offer.
- The taxpayer has limited assets, such as a modest amount of equity in a home or business that he cannot or will not liquidate and the taxpayer cannot afford the monthly payments of a deferred offer equivalent to the equity value of the asset. The low amount of the equity or the circumstances of the taxpayer are such that seizure of the asset is not a practical option.

In these situations the only option available is to turn down the installment agreement and put the case in inactive status. This has the effect of telling the taxpayer that the IRS is simply rejecting payments the taxpayer is willing to make while deferring further action on the case. Taxpayers, employees, and practitioners view this outcome as inexplicable and as undermining respect for the tax law and/or IRS policy.

As a result, there is a gap in the Service's ability to collect on certain liabilities. We have attempted to quantify this gap using FY 1998 as a baseline. The IRS

estimates that approximately $XX million in annual collections is being lost due to the inability to enter into partial pay installment agreements.

Acceptance of partial pay installment agreements would not prevent the IRS from pursuing further collection options, if the taxpayer's income or assets increase in the future, or from filing notices of federal tax lien to preserve the IRS's priority among creditors. Accordingly, the IRS would monitor such agreements.

Finally, in the past, installment agreements were stretched out for many years beyond the expiration of the collection statute in an attempt to fully collect the liability. This was perceived as unfair to taxpayers. Accordingly, the IRS will not extend the term for partial pay installment agreements beyond the current maximum term of five years beyond the expiration of the collection statute.

Examples of how cases would be treated under this proposal are attached at Tab A.

**Present Law**

(1) Installment agreements must fully pay tax liabilities (IRC 6159)

A. Legislative Background for Present Law: In 1988 P.L. 100-647, Sec. 6234(a), added Code Section 6159, effective for agreements entered into after 11/10/88, titled: Sec. 6159. Agreements for payment of tax liability in installments. The sub-section to which the requested legislation applies states:

(a) Authorization of agreements.
The Secretary is authorized to enter into written agreements with any taxpayer under which such taxpayer is allowed to satisfy liability for payment of any tax in installment payments if the Secretary determines that such agreement will facilitate collection of such liability.

**Suggested Legislative Language**

Addition of the following language ***(in bold and italic)*** and the striking of other language ~~**(bold and struck)**~~ in subsection 6159(a) of the Internal Revenue Code.

Section 6159 amended language:

Sec. 6159. Agreements for payment of tax liability in installments.
(a) Authorization of agreements.
The Secretary is authorized to enter into written agreements with any taxpayer under which such taxpayer is allowed to ***make payment on*** ~~**satisfy liability for payment of**~~ any tax in installment payments if the secretary determines that such agreement will facilitate ***full or partial*** collection of such liability.

# Appendix III: Comments from the Internal Revenue Service

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

March 12, 2002

Mr. James R. White
Director, Tax Issues
United States General Accounting Office
Washington, DC 20548

Dear Mr. White:

I reviewed your draft report titled "IRS Should Evaluate the Changes to Its Offer in Compromise Program".

Your report is comprehensive and accurately accounts for the factors that influence our Offer in Compromise (OIC) inventory. We have addressed the increasing demand for OIC services by reallocating resources and employing new initiatives, such as the centralized OIC processing (COIC). Our goals for the program are to reduce inventory and processing time.

I agree with your assessment that success of our goals to reduce inventory and processing time may be uncertain. Regulatory, legislative and policy changes that complicate the process, as well as increasing demand, can impact our success. Changes in these factors can increase processing time and strain our limited resources. Taxpayers who submit an OIC mainly to delay actions further strain our OIC resources.

Many of our planning assumptions regarding productivity were based on our observation of similar processes in the field campuses. The business decision to deploy resources for COIC was driven by our need to address the current OIC inventory. We decided OIC processing could be simplified, streamlined, and operated more efficiently in a batch processing, service center environment.

Your report acknowledges that the scope and depth of evaluation of initiatives should be weighed against the resources required and the benefits of the information derived from the evaluation. We have found that special evaluation techniques such as those we use for the Fast Track and the COIC initiatives are appropriate for significant OIC improvement initiatives. For example, pending changes, such as re-engineering of the installment agreement program or the use of regulatory authority to charge an OIC user fee, will have more of an impact than can be determined through the existing Management Information System (MIS). For smaller initiatives we will use other

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evaluation methods to help measure their effectiveness. For example, the "expanded return authority" initiative for OIC cases is being measured through the Automated OIC system.

Our strategy for enhanced automation initiatives for the OIC programs will improve customer service, employee satisfaction, and our ability to track program performance. As part of our ongoing oversight of the programs, we will continue to visit our COIC sites. In addition, our dialogue with the COIC management teams will help to create an environment for continued process improvement.

We are committed to maintaining a viable and credible OIC program for taxpayers who are serious about compromise. Our comments on your recommendations follow:

RECOMMENDATION: Develop evaluation plans for the various offer initiatives that includes details on data to be collected, data collection methods, basis for comparing outcomes, quality of decisions, and an analysis plan, and move no new initiatives into implementation without a finalized evaluation plan.

We agree evaluation plans are beneficial. We developed an evaluation plan for Fast Track, and we are creating one for COIC. These plans are commensurate with the costs and benefits to be derived from both initiatives. When the costs of such a complex plan cannot be justified (procedural or policy changes of limited impact), we will continue the implementation of additional OIC initiatives.

RECOMMENDATION: Determine which OIC Program performance and cost data should be collected to monitor program performance, given resources constraints; and ensure that such data are collected in a timely and reliable manner.

For several years we have tracked the general performance of the OIC program. We are now taking steps to integrate OIC performance with balanced measures. We are also working on the OIC automation process to improve customer service, employee satisfaction, and our ability to monitor program performance.

RECOMMENDATION: Set goals for offer processing time that are based on the needs of taxpayers, other benefits, and costs.

We will re-examine our six-month processing time goal and consider the needs of taxpayers, other benefits, and costs in determining the goal. We also will balance these factors with the needs of all stakeholders and determine how any changes would affect tax administration.

RECOMMENDATION: We recommend that the Commissioner of Internal Revenue prepare documentation for its proposal to allow partial payment installment agreements. The documentation should describe key features of the proposal, including the benefits to taxpayers; the processes for accepting, rejecting, reviewing and monitoring the

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agreements; resources needs; the number of taxpayers potentially affected; and plans for evaluating the impact of the program.

Our proposal to allow partial payment installment agreements will provide a payment avenue for many taxpayers who currently do not qualify for an installment agreement. Moreover, many of the actions necessary to implement the proposed program will be very straightforward and will involve simply modifying the current process. However, once the legislation is passed, we will develop an appropriate program evaluation plan for partial payment installment agreements. We also will ensure that our implementation plan for the legislation addresses the processes for accepting, rejecting, reviewing and monitoring the agreements as well as the impact on our resources.

If you have any questions, please contact me or Martha Sullivan, Director, Compliance, Small Business/Self-Employed, at (202) 283-2180.

Sincerely,

Bob Wenzel

for Charles O. Rossotti

# Appendix IV: Comments from the Taxpayer Advocate Service

TAXPAYER ADVOCATE SERVICE

National
Taxpayer Advocate

Department of the Treasury
**Internal Revenue Service**
Washington, DC 20224

FEB 21 2002

MEMORANDUM FOR CHIEF, COMMUNICATIONS AND LIAISON

FROM: Nina E. Olson
National Taxpayer Advocate

SUBJECT: Response to GAO Draft Audit Report - Taxpayer Advocate Service Comments to the GAO report "IRS Should Evaluate the Changes to Its Offer in Compromise Program" (GAO-02-311)

The National Taxpayer Advocate (NTA) agrees with GAO that the Offer in Compromise (OIC) process takes too long and the backlog of cases needs to be addressed. The NTA provided input to GAO during this audit and identified OIC delays in the National Taxpayer Advocate's 2001 Report to Congress as one of the top problems faced by taxpayers.

The GAO report identifies several IRS initiatives underway to limit new offer submissions and improve processing efficiency. The NTA believes that IRS is making changes that should reduce the OIC inventory. For example, we are hopeful that the backlog will be lessened by the strategy of separating offers by complexity to better utilize the skills of offer specialists and allow relatively simple offers to be handled by a trained group of employees at two centralized sites. In addition, policy and procedural changes to reduce the number of frivolous offers should also decrease the inventory. As IRS becomes more current with OIC inventory, the need for taxpayers to resubmit outdated financial information should also diminish.

The Taxpayer Advocate Service (TAS) agrees with GAO that IRS is not rejecting OICs from low-income taxpayers solely based on the amount offered. We do have some concerns about how the proposed user fees might affect these taxpayers. We have voiced our concerns about the user fee proposals and how they might affect low-income taxpayers. The Director of Business Advocacy in TAS will monitor the implementation of the user fee and its impact on the ability of low-income taxpayers to have their OICs given fair consideration.

The IRS has recommended a legislative change to raise the threshold for counsel review of offers to reduce processing time. The NTA believes that the requirement for Counsel review should be eliminated entirely, regardless of the

offer amount. Employees often take counsel "advice" as a decision or directive. Therefore, Counsel advice can effectively kill an offer. IRS personnel should seek offer guidance during the process and then articulate their position, acceptance or denial, in writing.

We agree with the IRS recommendation regarding extending the statutory period for collections while an OIC is under consideration in an effort to reduce frivolous offers. Statutory periods are extended for Tax Court cases and in bankruptcy filings. The NTA believes that IRS should take a similar administrative approach by suspending the statutory period and continuing efforts to reduce OIC processing timeframes.

Effective Tax Administration (ETA) offers have expanded the basis for accepting offers. However, in our view the Service has interpreted too narrowly the situations when an ETA OIC might be applicable. The proposed regulations generally do a good job of explaining a hardship situation where an ETA OIC might be appropriate. The Taxpayer Advocate Service has been working with Chief Counsel's office, the Commissioner's office, and the Small Business/Self Employed Operating Division to expand the proposed regulations to include a clearer description and more examples of other situations where an ETA OIC would be appropriate.

We share some of TIGTA's concern (outlined in this GAO report) about allowing the Internal Revenue Service to process OICs as withdrawn. We agree that it saves the government resources and many times it allows the taxpayer to avoid necessary costs where the OICs are not acceptable. However, we are concerned that some taxpayers may be withdrawing their OICs to accommodate the Internal Revenue Service or because they do not understand the process or the consequences of withdrawal. In addition, those who withdraw are not given the opportunity to have a different employee consider their offer and either accept it or suggest some acceptable revision.

As GAO indicates, the IRS does not have data to provide to stakeholders regarding the proposal to allow for partial pay installment agreements. However, the Service formerly accepted these types of agreements and many taxpayers opted for this type of a resolution. Therefore, we are hopeful that the ability to accept these types of installment agreements will increase dollars collected.

In the National Taxpayer Advocate's FY 2001 Annual Report to Congress I recommended that Congress amend Internal Revenue Code section 6159 to allow IRS to enter into installment agreements that do not provide for full payment of the tax liability over the statutory limitations period for collection of tax where it appears to be in the best interests of the taxpayer and the Service. This change, if adopted, will enable the IRS to enter into agreements with "gap" taxpayers, i.e., taxpayers who have some ability to make monthly payments and

who also have assets which for one reason or another the taxpayer cannot liquidate or borrow against and against which the Service would be unlikely to initiate collection action.

We strongly believe the a legislative change to allow for partial payment installment agreements will not only help taxpayers who have assets but also will allow for payments from individuals who want to pay but cannot meet the required installment agreement amount. For example, a taxpayer may be willing and able to submit monthly payments, but the IRS lacks the authority to enter into an installment agreement that will not full pay the liability.

Thank you for the opportunity to comment on this draft report. If you need additional information please contact Rena Girinakis at 202-622-4321.

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